

# Summary of Basham et al. v. Mitchell

(No. 2:26-cv-00408)

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## Case Overview

- Plaintiffs: Stephen Basham, Philip Kaso, and Roderick Patton, individually and on behalf of similarly situated registrants.
- Defendant: James L. Mitchell, Superintendent of the West Virginia State Police, sued in his official capacity.
- The lawsuit challenges West Virginia Code §§ 15-12-2(o) and 15-12-2(p), which impose a \$125 annual registry fee and authorize judgment liens for nonpayment.

## Key Constitutional Claim

- The complaint asserts a single constitutional claim under the Ex Post Facto Clause of Article I, Section 10 of the U.S. Constitution.
- Plaintiffs argue the annual fee is a retroactive punitive fine because it was enacted years after their convictions and sentences became final.
- The fee is alleged to be imposed solely because of a prior conviction, assessed annually and often for life, enforced through judgment liens, and used for State Police mental health programs and general operations rather than registry administration.
- Plaintiffs contend these characteristics make the statute punitive in purpose and effect.

## Supporting Facts

- Stephen Basham was convicted in 2017 and completed his sentence in 2022.
- Philip Kaso was convicted in 2001 and completed his sentence in 2007.
- Roderick Patton was convicted in 1982 and completed his sentence in 1983.
- All plaintiffs allege the fee was enacted after their convictions became final.
- The complaint alleges there is no exemption, waiver, individualized assessment, or mechanism to terminate the payment obligation.

## Relief Sought

- Declaratory judgment that West Virginia Code §§ 15-12-2(o) and 15-12-2(p) violate the Ex Post Facto Clause.
- Injunction prohibiting continued retroactive enforcement of the fee and lien provisions.
- Attorney's fees and costs.
- The complaint does not seek damages or refunds of fees already paid.